

Central Valley Regional Water Quality Control Board
DRAFT Response to Comments at October/November 2012 CEQA Scoping Sessions for:
Evaluation of the Municipal and Domestic Supply Beneficial Use (MUN)
in Agriculturally Dominated Water Bodies

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) has provided opportunities for the public to submit written and verbal comments for the “Evaluation of the Municipal and Domestic Supply Beneficial Use (MUN) in Agriculturally Dominated Water Bodies” project. California Environmental Quality Act (CEQA) Public Scoping Meetings/Public Workshops were held on October 24 (Willows), November 2 (Rancho Cordova) and November 7, 2012 (Fresno). This document contains responses to questions/comments received during these three meetings as well as to written comments submitted to Central Valley Water Board staff.

This “Response to Comments” is organized into three sections. The first (Section 1) addresses broad issues identified at one or more CEQA scoping meetings or by multiple commentators. The second section (Section 2) addresses specific comments or questions made at the CEQA scoping meetings. The last section (Section 3) addresses written comments.

Verbal comments made at each CEQA scoping meeting are summarized in the following documents that can be accessed at

http://www.waterboards.ca.gov/centralvalley/water_issues/salinity/mun_beneficial_use/index.shtml:

1. Meeting Notes October 24, 2012.pdf
2. Meeting Notes November 2, 2012.pdf
3. Meeting Notes November 7, 2012.pdf

Section 1 – Broad Issues and Responses

The broad issues identified during the meetings are presented below.

1	Use of only the Sacramento Valley archetypes to provide a template for the whole Central Valley Region
2	Definition of “Ag dominated”
3	Impact of MUN dedesignation to downstream sources and overall water quality
4	Monitoring of downstream sources
5	Impacts from recycling and conservation efforts
6	Economic considerations to farmers and local water districts
7	Input from the California Department of Public Health
8	Other impacted municipalities or point sources

The following are Central Valley Water Board staff responses to the master comment topics above.

1. General comment: the Sacramento Archetype Study Area (consisting of four subareas surrounding the effluent discharge of the Cities of Biggs, Colusa, Live Oak and Willows) is not

adequate to characterize the Ag dominated water bodies across the entire Central Valley. (These concerns are echoed in a number of the comment letters in Section 3.)

Central Valley Water Board staff agrees that some type of review of the other Central Valley basins may be necessary to supplement or serve as a “check” before the Sacramento archetype work can be used as a template for the entire Central Valley region.

2. General comment: there is a lack of a clear definition for the term “Ag dominated”

Central Valley Water Board staff agrees that further clarification of definitions is critical to the success of any proposed Basin Plan Amendment alternative. The stakeholder group providing input to this effort has reviewed the working definitions identified in the Agricultural Water Task Force Report to the State Water Resources Control Board (Chapter 4 of the *Reports of the Public Advisory Task Forces to the State Water Resources Control Board Regarding Development of the Inland Surface Waters Plan and the Enclosed Bays and Estuaries Plan*, October 1995) and will provide recommendations on final definitions as the project moves forward. The current working definition of “Ag dominated” is agricultural activities accounting for greater than 50% of overall flow during the irrigation season.

3. General comment: How will removing the MUN beneficial use from Ag dominated water bodies affect the downstream water bodies and water quality? Concern has been expressed that removing MUN designations will caused impairment of downstream beneficial uses.

If the beneficial use is removed by utilizing one of the exception criteria in the Sources of Drinking Water Policy (88-63), such as the water body being constructed or modified for the purpose of transporting Ag drainage, a monitoring program must be in place to insure that downstream beneficial uses are protected. Regardless of whether a specific exception is utilized, understanding the relationship of Ag dominated water bodies to downstream water bodies is an important aspect of this project. A water quality monitoring study was initiated (spring of 2012) in the Sacramento archetype study area and sites both upstream and downstream of the effluent discharge are included. The primary objectives of this monitoring project are to characterize the Ag dominated receiving waters and determine spatial and temporal influence of the discharge. Review and discussion of the water quality data occurs internally and at stakeholder meetings. Any final proposed basin plan amendment must include a monitoring and surveillance component that insures beneficial uses are protected.

4. General comment: Who will be monitoring the downstream sources to ensure that water quality is not impacted and how far downstream does the monitoring need to take place?

These are questions that must be addressed as part of the Monitoring and Surveillance portion

of any proposed Basin Plan Amendment. Existing programs will first be reviewed to determine whether they adequately insure that downstream beneficial uses are protected. How far downstream will depend on whether there is a specific point source discharger who must determine that their discharge does not impair water quality or whether there is a regional nonpoint source entity utilizing channels that are may be de-designated and that ultimately discharge into a MUN designated water body. Alternatives will be proposed and discussed with the stakeholder group as the project moves forward.

5. General comment: the current efforts to encourage farmers to conserve and recycle water will not be compatible with meeting the MUN water quality standards.

This project is aimed at determining the appropriate MUN beneficial use and level of protection in Ag dominated water bodies. As such, policies like the Recycle Water Policy will play a factor in the decision making process.

6. General comment: there needs to be a thorough economic analysis to examine the burden of the existing or proposed regulatory measures.

A thorough economic analyses on potential impacts of recommended alternatives is required as part of a basin plan amendment process.

7. General comment: The California Department of Public Health's (CDPH) approach to using agricultural water as Municipal or Domestic Supply use may conflict with any such designation by the Central Valley Water Board. Will they weigh in on this issue?

Central Valley Water Board staff contacted CDPH in the spring of 2012 to request their participation in this project. To date, CDPH has not participated in any stakeholder meetings. Central Valley Water Board staff recognizes the importance of CDPH's involvement in this process and will continue to make an effort to engage them and obtain their feedback.

8. General comment: Are other municipalities (other than the four cities in the Sacramento Valley) or point source dischargers impacted by the MUN beneficial use application in Ag drains?

Central Valley Water Board staff are in the process of identifying other similarly impacted point source dischargers.

Section 2 – Specific Comments and Responses (CEQA scoping meetings)

The comments have been grouped for similar topics. The dates in the parenthesis indicate at which meeting the comment was made.

The Singular comments/questions are presented below with the associated meeting date:

1	Does a basin plan amendment need to be used to address this issue?	11/2/12
2	What's the difference between the Basin Plan and a permit?	11/2/12
3	Is MUN in Ag dominated water bodies an issue for discharges other than POTWs?	10/24/12
4	How do we know which stakeholders are involved in this effort?	11/2/12
5a	If the scope of the project is just these four dischargers, why not just implement SSOs and be done with it? Other alternatives may just slow down the process for the POTWs.	11/2/12
5b	Recommend starting with SSOs to address immediate problems with POTWs while working on Alternative 3 as a longer term option.	10/24/12
6a	Very few rivers or streams meet the MUN water quality objectives (Title 22 MCLs).	11/2/12
6b	Most conservative criterion isn't always applicable. The Water Board should justify their numbers.	11/7/12
7	What will the MCLs be replaced with?	10/24/12
8	Does the MCL address the water quality objectives for other beneficial uses?	10/24/12
9	Can site specific objectives be reviewed or changed after adopted?	10/24/12
10	Are the Drinking Water Policy (88-63) and the tributary rule in conflict?	11/7/12
11	Why can't the tributary rule be used for water bodies draining into the Colusa Basin Drain?	10/24/12
12	The tributary rule has been problematic in other applications and is too arbitrary. More clarification is needed in the Basin Plan, especially in terms of how it (. . . the tributary rule) is or is not applied to constructed Ag drains or Ag supply channels.	11/2/12
13	Can the process used to dedesignate the Colusa Basin Drain be used today?	11/2/12
14	Who would be responsible for following the water body categorization flow charts and decision trees?	10/24/12
15	If constructed records are used (to determine water body category), will there be any criteria for what information will be accepted?	11/2/12
16	Would specific water bodies be named in the Basin Plans or just the flowcharts?	10/24/12
17	If we dedesignate MUN, do other beneficial uses still apply?	11/7/12
18	Will the dedesignation require a Use Attainability Analysis (UAA)?	11/7/12
19	Does USEPA always have jurisdiction over water bodies?	11/7/12
20	How will this project work with the 303(d) listing?	11/7/12
21	How do we limit overall pollution to the water? We are treating the symptoms but not finding the cure. What about the Public Trust benefit?	11/2/12
22	Who is funding the project and will there be a cost in the future?	10/24/12
23	What type of costs would be required for additional monitoring?	11/2/12
24	Could the Irrigated Lands Regulatory Program (ILRP) adapt to monitor downstream sources sufficiently?	11/2/12
25	How will effluent dominated water bodies versus Ag dominated water bodies be addressed?	11/2/12

26	Is the timeline consistent with CV-SALTS?	11/2/12
27	Can you really get to a preferred alternative in 1-year?	10/24/12
28	How easy will it be to get approval from USEPA, State Board and OAL?	10/24/12
29	Will there be a hybrid of options?	11/2/12
30	Did Vacaville try Alternative 5 (removing MUN from all Ag dominated water bodies) and did it succeed or fail? If Vacaville used this alternative, what method was used to identify water body type?	10/24/12
31	Recommend starting with alternative 5 and dedesignating MUN beneficial use in all Ag dominated water bodies. Then use Alternative 3 to designate where MUN use does apply and where downstream water bodies need to be protected (e.g. Ag dominated natural water bodies).	11/2/12
32	Can dilution credits or mixing zone calculations be used to meet water quality objectives downstream of dischargers?	11/2/12
33	Use some type of economic advantage to help both parties navigate through the process. Give flexibility that includes “offsets” or “trades”.	11/7/12
34	Will the results of this process apply in upcoming ILRP waste discharge requirements?	11/7/12
35	This (final plan) needs to allow for flexibility so that dischargers are not forced to do individual Basin Plan Amendments.	11/7/12
36	What is the default for dedesignating MUN? The Ag community doesn’t want “bad” water, but let them regulate themselves and the quality of water they need for their agriculture.	11/7/12
37	Natural water bodies should be the highest priority for the Water Boards.	11/7/12
38	Primary use of Ag supply is for irrigation. The existing MUN policy will interfere with Ag supply because the water does not meet MUN standards. Policies may trap farmers from using water.	11/7/12

The following are the Central Valley Water Board staff responses to the comments/questions above.

1. Does a basin plan amendment need to be used to address this issue?

The Basin Plans require a Basin Plan Amendment to utilize the exceptions listed in the Drinking Water Policy and/or to change the any beneficial use designation in a water body.

2. What’s the difference between the Basin Plan and a permit?

Water Quality Control Plans (Basin Plans) are adopted under authority provided in statute using a process of public comment, hearing, and approval by the Office of Administrative Law so have the legal force and effect of regulation. The Basin Plans identify beneficial uses for surface and ground water, water quality objectives to protect those uses and implementation programs to insure the objectives are met.

Permits that are issued by the Central Valley Water Board govern and restrict the amount of pollutants that can be discharged into the ground or a water body in order to comply with the Basin Plans.

3. Is MUN in Ag dominated water bodies an issue for discharges other than POTWs?

Yes. Meeting water quality objectives to protect MUN in Ag dominated waters may impact both point and non-point source discharges including discharges from agricultural fields

4. How do we know which stakeholders are involved in this effort?

The stakeholders are listed in each of the meeting notes available on the project website at: http://www.waterboards.ca.gov/centralvalley/water_issues/salinity/mun_beneficial_use/index.shtml An interested party may also contact Anne Littlejohn at alittlejohn@waterboards.ca.gov or 916-464-4840 for a full listing of stakeholders.

5. If the scope of the project is just these four dischargers, why not just implement site specific objectives (SSOs) and be done with it? Other alternatives may just slow down the process for the POTWs (11/2/12). Recommend starting with SSOs to address immediate problems with POTWs while working on Alternative 3 as a longer term option (10/24/12).

Development of site specific objectives is one of the alternatives under consideration.

6. Very few rivers or streams meet the MUN water quality objectives (Title 22 MCLs)—11/2/12. Most conservative criterion isn't always applicable. The Water Board should justify their numbers (11/7/12).

Evaluation of appropriate water quality objectives to protect MUN beneficial uses is part of this effort. Any proposed changes would be subject to scientific peer review.

7. What will the Maximum Contaminant Levels (MCLs) be replaced with?

Whether the MCLs are replaced and potential alternatives are still under discussion.

8. Does the MCL address the water quality objectives for other beneficial uses?

Each beneficial use has either narrative or numeric water quality objectives identified to insure protection. Constituents identified with MCLs may or may not be protective of other uses at the concentrations specified.

9. Can site specific objectives be reviewed or changed after adopted?

The objectives can be reviewed or changed through a Basin Plan Amendment.

10. Are the Drinking Water Policy (88-63) and the tributary rule in conflict?

The State Sources of Drinking Water Policy (88-63) was incorporated into the Central Valley Basin Plans in a manner that supersedes the tributary rule application. Therefore, the blanket designation of the MUN beneficial use applies regardless of any downstream tributary beneficial use designations.

11. Why can't the tributary rule be used for water bodies draining into the Colusa Basin Drain?

The Basin Plans' interpretation of the Sources of Drinking Water Policy (88-63) has resulted in a blanket designation of the MUN beneficial use in all surface waters which are not otherwise designated in the Basin Plans as not having the MUN use. Therefore, the tributary rule does not apply for the MUN beneficial use. The tributary rule can be used for natural water bodies draining into the Colusa Basin Drain for other beneficial uses (e.g. aquatic life, recreation). The tributary rule generally does not apply to constructed facilities.

12. The tributary rule has been problematic in other applications and is too arbitrary. More clarification is needed in the Basin Plan, especially in terms of how it (. . . the tributary rule) is or is not applied to constructed Ag drains or Ag supply channels.

Use of the tributary rule, which would include clarification, is one of the alternatives under discussion.

13. Can the process used to de-designate the Colusa Basin Drain be used today?

The beneficial use designations for the Colusa Basin Drain were made when the Basin Plans were first written in 1972. Since this time, the Basin Plans were amended and now require a Basin Plan Amendment to change the MUN beneficial use designation.

14. Who would be responsible for following the water body categorization flow charts and decision trees?

The specific process is still under discussion.

15. If constructed records are used (to determine water body category), will there be any criteria for what information will be accepted?

This is an issue that will need to be addressed at future stakeholder meetings as part of the Implementation discussions.

16. Would specific water bodies be named in the Basin Plans or just the flowcharts?

The specific process is still under discussion.

17. If we de-designate MUN, do other beneficial uses still apply?

Yes

18. Will the de-designation require a Use Attainability Analysis (UAA)?

USEPA requires a Use Attainability Analysis (UAA) for removing beneficial uses on waters under its authority (waters of the United States). California requires a scientific study when evaluating beneficial uses on any state surface or ground water. The components of a UAA and scientific study are similar. The need for a UAA is under discussion.

19. Does EPA always have jurisdiction over water bodies?

USEPA has jurisdiction over any surface water body deemed to be a “Water of the United States”

20. How will this project work with the 303(d) listing?

If the beneficial use or water quality criteria changes for the MUN beneficial use, *future* 303(d) listings will reflect this change.

21. How do we limit overall pollution to the water? We are treating the symptoms but not finding the cure. What about the Public Trust benefit?

Part of the consideration for any water quality control action is the Statewide Policy with Respect to Maintaining High Quality of Waters in California (Resolution 68-16—a.k.a. the Antidegradation Policy). The policy requires that “... *the disposal of wastes into the waters of the State shall be so regulated as to achieve highest water quality consistent with maximum benefit to the people of the State.*...” Any recommendation that comes from this project must be evaluated against the Antidegradation Policy.

22. Who is funding the project and will there be a cost in the future?

The Central Valley Water Board assigned two full time employees to work on this project. However, no contract dollars were provided. The Cities of Biggs, Colusa, Live Oak, and Willows and CV-SALTS have partnered with staff on this project to provide funding for analytical work as well as environmental and economic evaluation of alternatives. The economic evaluation will determine potential future costs.

23. What type of costs would be required for additional monitoring?

This is an issue that will need to be addressed at future stakeholder meetings as part of the Monitoring/Surveillance discussions.

24. Could the Irrigated Lands Regulatory Program (ILRP) adapt to monitor downstream sources sufficiently?

Such an option will be discussed as part of proposing a Monitoring/Surveillance recommendation.

25. How will we address effluent dominated water bodies versus Ag dominated water bodies?

At this time, the Central Valley Water Board staff has only been directed to work on Ag dominated water bodies.

26. Is the timeline consistent with CV-SALTS?

Yes, this project ties into the policy discussions and milestones set forth by CV-SALTS, although this project's timeline anticipates Central Valley Water Board hearing on a recommended Basin Plan Amendment two years prior to the anticipated hearing for a final CV-SALTS Salt and Nitrate Management Plan.

27. Can you really get to a preferred alternative in 1-year?

The Central Valley Water Board is committed to the current project plan schedule

28. How easy will it be to get approval from USEPA, State Board and OAL?

There is not guarantee of approval from these entities. However, both the USEPA and State Board staff have been active stakeholders in the project from the very beginning of this effort.

29. Will there be a hybrid of options?

Central Valley Water Board staff will review and consider all the stakeholder comments given during the CEQA scoping process. The preferred alternative may be a hybrid of the options provided during those meetings.

30. Did Vacaville try Alternative 5 (removing MUN from all Ag dominated water bodies) and did it succeed or fail? If Vacaville used this alternative, what method was used to identify water body type?

Response pending additional data.

31. Recommend starting with alternative 5 and dedesignating MUN beneficial use in all Ag dominated water bodies. Then use Alternative 3 to designate where MUN use does apply and where downstream water bodies need to be protected (e.g. Ag dominated natural water bodies).

This option will be considered along with other alternatives.

32. Can dilution credits or mixing zone calculations be used to meet water quality objectives downstream of dischargers?

This possibility will be discussed while evaluating Implementation alternatives.

33. Use some type of economic advantage to help both parties navigate through the process. Give flexibility that includes “offsets” or “trades”.

This possibility will be discussed while evaluating Implementation alternatives.

34. Will the results of this process apply in upcoming Irrigated Lands Regulatory Program (ILRP) waste discharge requirements?

Any permits developed by the ILRP must enforce Basin Plan requirements. Should a Basin Plan Amendment be adopted, future ILRP permits must comply with it.

35. This (final plan) needs to allow for flexibility so that dischargers are not forced to do individual Basin Plan Amendments.

Comment will be considered.

36. What is the default for dedesignating MUN? The Ag community doesn’t want “bad” water, but let them regulate themselves and the quality of water they need for their agriculture.

Comment and concerns to be considered.

37. Natural water bodies should be the highest priority for the Water Boards.

Comment will be considered.

38. Primary use of Ag supply is for irrigation. The existing MUN policy will interfere with Ag supply because the water does not meet MUN standards. Policies may trap farmers from using water.

Comment to be considered.

Section 3 – Responses to written comment letters

Written comments were received from:

1	Ms. Janet Hashimoto, Manager, Standards and TMDL Office (WTR-2), United States Environmental Protection Agency, Region IX
2	Ms. Cindy Paulson, Ph.D., Executive Director, California Urban Water Agencies
3	Ms. Debbie Webster, Executive Officer, Central Valley Clean Water Association
4	Mr. Larry Domenighini, President, Colusa Glenn Subwatershed Program
5	Mr. Michael Johnson, President, Michael L. Johnson, LLC
6	Mr. William P. Lewis, Operations and Permitting Specialists (on behalf of the City of Live Oak)
7	Ms. Sherill Huun, Supervising Engineer, Sacramento River Source Water Protection Program
8	Mr. Dennis Westcot, Project Administrator, San Joaquin River Group

The following are the responses to the written comments above.

1. U.S. EPA

- a. *EPA believes that the CEQA review should especially focus on the possible substance of Alternative 3. Alternative 3 would adopt a framework for categorically evaluating the MUN use, water quality objectives and implementation program for agriculturally dominated water bodies.*

Central Valley Water Board staff appreciates U.S. EPA's support for a framework for categorically evaluating the MUN beneficial use.

- b. *EPA recommends that additional case studies should be pursued in regions other than the Sacramento River Basin before the framework or template is applied to all Central Valley agriculturally dominated surface water bodies.*

Central Valley Water Board staff agrees that additional case studies should be considered in other areas of the Central Valley.

- c. *In addition, EPA recommends that before the Regional Board accepts or certifies final determinations of use designations, the Board should:*

- i. *allow public participation through the Triennial Review process which should document analysis...*

Central Valley Water Board staff agrees that the Triennial Review process may be a good solution to ensuring public participation on final determinations of beneficial use designations.

- ii. *...and 'spot checks' by the Regional Board staff to ensure that the final use designations are appropriate."*

Central Valley Water Board staff agrees that 'spot checks' may be necessary to ensure appropriate beneficial use designations.

2. California Urban Water Agencies

- a. *In order to appropriately de-designate the MUN beneficial use in constructed agricultural drains, it is important to develop a rigorous and technically sound framework to evaluate the implications of de-designating water bodies for the MUN beneficial use. CUWA agencies suggest that the MUN use should be maintained, and all associated water quality objectives should be achieved in water bodies that are downstream of constructed agricultural drains. Any consideration of MUN dedesignation on constructed agricultural drains should account for downstream uses. The framework should ensure that downstream degradation in water quality does not occur as a result of this process*

Central Valley Water Board staff agrees that any consideration of MUN dedesignation needs to account for downstream uses and water quality. There are two policies that

will influence this Basin Plan Amendment:

State Resolution 88-63 “Sources of Drinking Water Policy” requires that discharge is monitored to insure compliance with downstream water quality objectives to meet the exception for constructed or modified waterways containing agricultural drainage.

State Resolution 68-16 “Statement of Policy with Respect to Maintaining High Quality Waters in California” (California Antidegradation Policy) applies to high quality waters and requires that existing high quality be maintained to the maximum extent possible. It does allow lowering of water quality if the change is consistent with the maximum benefit to the people of California and will not unreasonably affect present and potential beneficial uses, and will not result in water quality lower than applicable standards. In addition, waste discharge requirements for proposed discharge must result in the best practicable treatment and control of discharge to assure no pollution or nuisance and the highest water quality consistent with the maximum benefit to the people of California.

3. Central Valley Clean Water Association

- a. *As a top priority, this effort should remained focus on providing appropriate NPDES permitting relief to each of these communities and ‘fixing’ the existing Basin Plan Language that has led to the need for this Basin Plan amendment process*

Comment to be considered.

- b. *CVCWA is supportive of the decision tree approach that has been discussed to date in the work group meetings. We suggest that these discussions be continued to fully explore the details of the process and the regulatory hurdles that may occur. As noted above, we recommend continued work on these issues within the existing work group format*

Central Valley Water Board staff appreciates CVCWA’s support and involvement in this process. We will continue to work on these issues within the existing stakeholder format.

- c. *As noted on page 2 of the Information Document, the existing Basin Plan contains language that, as newly interpreted by the Regional Water Board, requires a Basin Plan amendment to utilize the exceptions identified in SWRCB Resolution 88-63. One or more of the proposed alternatives should explicitly state that the Basin Plan language will be modified to eliminate this requirement in favor of Executive Officer approval, or other administrative solution.*

Central Valley Water Board staff has and will continue to consider options for modifying the existing Basin Plan language requiring a Basin Plan amendment as a part of a potential alternative.

- d. *CVCWA recommends that a new alternative be identified which narrowly focuses on the MUN de-designation and other provisions of a Basin Plan amendment needed to address the issues described for the four case studies. We feel this alternative should be*

identified to avoid a possible case where the Basin Plan amendment needed for the case study communities is de-railed on the basis of issues unrelated to the specific case studies.

Open for further discussion.

- e. *In addressing the issue of compliance with MUN uses in downstream waters, the Basin Plan amendment should consider specific implementation language to prescribe consideration of mixing and dilution at the point of entry into those waters, as well as the appropriate averaging periods for assessment of compliance with MUN objectives in downstream waters.*

Central Valley Water Board staff will consider these options during implementation discussions.

- f. *The analysis should evaluate and identify environmental and cost impacts associated with implementation of the various alternatives, including the No Action alternative. For the No Action alternative, this should include the evaluation of impacts associated with actions by POTWs to meet and comply with MUN water quality objectives and associated effluent limits under the existing NPDES permits.*

An economic review of any proposed alternative.

4. Colusa Glenn Subwatershed Program

- a. *For the Sacramento Valley Alternative 5 – De-designate the MUN (drinking water) beneficial use in all Ag dominated water bodies is the appropriate approach. This would correct an oversight that occurred when the Basin Plan was originally adopted. Also, it would most effectively remedy the current situation that the cities of Willows, Colusa, Biggs, and Gridley are facing. The Regional Board’s water quality sampling results from April to June clearly demonstrate this would be the best alternative.*
- b. *On a broader, more regional scale Alternative 3 – Adopting a framework for categorically evaluating the MUN beneficial use, water quality objectives and implementation program for Ag dominated water bodies is the appropriate approach. The framework would allow for a process for changes to the Basin Plan in the future. This alternative would not allow a “one-size-fits-all” approach which has never been an efficient way of developing regulation.*

Central Valley Water Board staff appreciates Colusa Glenn Subwatershed Program’s comments and will bring forth for discussion at the next project stakeholder meeting this suggestion for a modified approach.

5. Michael L. Johnson, LLC

- a. *The Coalitions believe that these case studies would be insufficient to address issues associated with agricultural discharges in the San Joaquin Valley since they represent a single category of discharge which is specific to point source discharges. In addition, because the case studies rely on one category of discharge it is unclear if the flow charts presented at the meeting will be adequate to cover all of the various discharges*

originating with irrigated agriculture or the various types of water bodies that exist in the Coalition regions. The Coalitions encourage the Regional Board to identify other case studies in the San Joaquin Valley that are not associated with point source discharges.

Central Valley Water Board staff agrees that additional case studies should be considered in other areas of the Central Valley. It should be noted, however, that the Sacramento archetypes study area covers an approximate 400 square mile swath of agricultural dominated land with water quality sample points throughout the area. Although the subareas are focused on the discharge from four local wastewater treatment plants, the study monitoring design enables us to collect water quality data to characterize non-point source agricultural discharges in the surrounding areas as well.

- b. Nonpoint source discharges are the predominant agricultural discharge and the majority of these discharges are to agriculturally dominated water bodies that have been assigned MUN due to downstream water body beneficial use designations. The agricultural coalitions in the San Joaquin Valley are developing new monitoring plans and outreach strategies under their new WDR Orders. These orders require that if a water body experiences two exceedances of a water quality trigger limit within three years, the Coalitions must develop management plans with the goal of eliminating the exceedances. For the agriculturally dominated water bodies in the San Joaquin Valley, water quality trigger limits associated with the MUN beneficial use may be difficult if not impossible to achieve.*

This project focuses on evaluating the appropriate MUN beneficial use for these types of water bodies. This could mean dedesignation of MUN use, modified or refined MUN use, or full MUN use protection. The current MUN beneficial use assignment is a blanket designation due to the interpretation of the Drinking Water Policy (Resolution 88-63) in the Central Valley Basin Plans, and is not due to downstream water body beneficial use designations.

- c. The presentation that accompanied the written material provided two flow charts for identifying the category of water body and the action taken to address the problem of discharge to a category of agriculturally dominated water body. The Coalitions encourage the Regional Board to identify water bodies in each category that can serve as case studies for the process, and then walk through the decision tree for those categories. At this point, it's not clear what the critical decisions are or how those might impact Coalition monitoring and reporting programs.*

Central Valley Water Board staff started this process of identifying water bodies in each category and walking them through the decision tree during our August 2012 stakeholder meeting. Staff plans to continue these conversations at future stakeholder meetings.

- d. It seems unlikely that a thorough CEQA analysis can be performed using the single category of discharge to agriculturally dominated water bodies used as the case study. In particular, it is not clear how the economic analysis considering the potential costs to growers and irrigation districts can be performed without case studies that explicitly*

consider those costs.

Comment noted.

6. Operations and Permitting Specialist (on behalf of the city of Live Oak)
- What is the public review and approval process that the California Department of Public Health would use to allow an effluent dominated water body to be utilized as a potential municipal water supply?*
 - What regulations allow the water in agricultural drainage canals to be utilized as a municipal water supply source?*
 - How will the Department of Public Health determine the use of water in effluent dominated water bodies, or agricultural drains for use as a potential municipal water supply?*
 - Based on the following how is the use of recycled water to be permitted by the Department of Public Health for use from effluent dominated water bodies, or agricultural drains?...*

Central Valley Water Board staff appreciates Mr. Lewis's questions and accompanying research addressing the California Department of Public Health (CDPH) regulation. Central Valley Water Board staff contacted CDPH in the spring of 2012 to request their participation in this project. To date, CDPH has not participated in any stakeholder meetings. Central Valley Water Board staff recognizes the importance of CDPH's involvement in this process and will continue to make an effort to engage them and obtain their feedback.

7. Sacramento River Source Water Protection Program
- The four proposed case study areas included in this project are not likely to result in significant impacts to the Sacramento River source water quality. However, if this effort results in a broader de-designation process for agriculturally dominated water bodies for MUN and all beneficial uses, then this would be a major process with significant implications for cumulative water quality impacts to the Sacramento River.*

This project focuses on evaluating the appropriate MUN beneficial use for these types of water bodies. This could mean dedesignation of MUN use, modified or refined MUN use, or full MUN use protection. Two policies that influence this Basin Plan Amendment are the State Resolution 88-63 "Sources of Drinking Water Policy" and State Resolution 68-16 "Statement of Policy with Respect to Maintaining High Quality Waters in California" (California Antidegradation Policy). See response to 2a in Section 3 for more detail.

- A de-designation framework could conflict with other policies currently existing or in development at the Water Board, such as the Drinking Water Policy, the Irrigated Lands Regulatory Program, Total Maximum Daily Loads, and the Rice Pesticides Program. We request that the Water Board specifically and thoroughly evaluate the implications of individual and cumulative de-designation these programs.*

Central Valley Water Board staff representatives from all of the programs listed above

have been part of this project from the beginning. Staff agrees that it is important to evaluate any potential impact to these programs.

- c. *Any water quality monitoring program would need to be designed to be able to identify the cause of potential water quality deterioration in downstream water bodies. Also, the special requirements for MUN de-designation (downstream monitoring requirements) do not currently fully protect the MUN beneficial use for all drinking water regulated constituents, such as microbial constituents and organic carbon and by-product.*

Our Basin Plans currently state that “At a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs) specified in the following provisions of Title 22 of the California Code of Regulations, which are incorporated by reference into this plan: Tables 64431-A (Inorganic Chemicals) and 64431-B (Fluoride) of Section 64431, Table 64444-A (Organic Chemicals) of Section 64444, and Tables 64449-A (Secondary Maximum Contaminant Levels-Consumer Acceptance Limits) and 64449-B (Secondary Maximum Contaminant Levels-Ranges) of Section 64449. This incorporation-by-reference is prospective, including future changes to the incorporated provisions as the changes take effect. At a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain lead in excess of 0.015 mg/l. The Regional Water Board acknowledges that specific treatment requirements are imposed by state and federal drinking water regulations on the consumption of surface waters under specific circumstances. To protect all beneficial uses the Regional Water Board may apply limits more stringent than MCLs.” Currently, there is no narrative or numeric water quality objective for pathogens and no numeric water quality objective for organic carbon in the Basin Plans specifically relating to the MUN beneficial use. The Central Valley Drinking Water Policy Workgroup was formed in 2002 to provide a stakeholder-based platform for development of the policy. This MUN beneficial use evaluation project will continue to stay informed and follow the recommendations relative to the Drinking Water Policy for Surface Waters in the Central Valley Region.

- d. *We request that the Water Board regularly review any de-designation monitoring program to identify any newly regulated drinking water constituents or revised drinking water standards*

This comment will be considered during discussions on appropriate Surveillance and Monitoring.

- e. *We request that the Water Board consider expanding the archetypes to include other types of dischargers in more varied geographic conditions.*

Central Valley Water Board staff agrees that additional case studies should be considered in other areas of the Central Valley.

- f. *Because of the site-specific nature of the impacts of removing the MUN designation, we request that these studies be conducted for each individual water body proposed for de-designation and that downstream impacts be specifically addressed.*

Comment noted.

- g. We request a description from the Water Board on the specific differences between the individual Basin Plan Amendment process and the potential development of a “template” process for de-designation in the next phase of the larger effort. We are specifically interested in any differences in technical evaluations and the opportunity for public review and input. We hope that any de-designation of the MUN beneficial use, however streamlined, would allow for the same level of public input as an individual Basin Plan Amendment.*

Discussion is continuing through the stakeholder group on opportunities and constraints to developing a regionwide template.

- h. We do not have a preferred alternative at this time, but we request that the Water Board examine an additional alternative that would provide limited exceptions for site-specific water quality standards based on the MUN beneficial use (e.g., conductivity, iron), rather than removal of the MUN use entirely, to specific categories of agriculturally dominated water bodies.*

Central Valley Water Board staff presented Alternative 2 at the CEQA scoping meetings that would cover this suggestion by using Site Specific Objectives for specific MUN related constituents of concern (such as conductivity).

8. San Joaquin River Group

- a. There is a need to clarify the definitions used in the CEQA Scoping documents and in future work to ensure that the staff intention is clear on where the proposed amendment will apply and not apply; the present use of the term “agriculturally-dominated water bodies” makes it difficult to determine where the amendment might apply;*

See response to issue 1 in Section 1

- b. The archetypes proposed for use in the BPA process may not reflect conditions in the San Joaquin River Basin or the San Joaquin Valley*

Central Valley Water Board staff agrees that additional case studies should be considered in other areas of the Central Valley.

- c. There is a need for consistent use of federal regulations as most do not apply to “agriculturally-dominated water bodies;*

Comment noted for continued discussion during stakeholder meetings.

- d. None of the alternatives described is acceptable as a stand-alone alternative. The SJRGA has proposed a four-step approach to correctly designate the MUN beneficial use in*

“agriculturally-dominated water bodies;

Comment noted and proposed process will be discussed at stakeholder meeting.

- e. *The potential environmental impacts from the designation of the MUN beneficial use can be very complicated if it is applied to constructed canals and drains on the valley floor of the San Joaquin River Basin as this may change district operations and/or maintenance practices as well as cause increase costs to agricultural farming operations.*

A thorough environmental and economic analysis is required for recommended alternative(s). This concern will be included for evaluation during that process.

DRAFT